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<b>SEP 20 2019</b>	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

AZUJHON KENNETH SIMS,  
  
Plaintiff,  
  
vs.  
  
ROMEO ARANAS, et al.,  
  
Defendants.

Case No. 3:17-cv-00543-RCJ-CBC

*ORDER*  
**DEFENDANT'S MOTION FOR  
ENLARGEMENT OF TIME TO FILE A  
DISPOSITIVE MOTION  
(First Request)**

Defendant, Marsha Johns, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Peter E. Dunkley, Deputy Attorney General, hereby move this Court for an order enlarging the time for Defendant to file an answer. This Motion is made pursuant to Federal Rule of Civil Procedure ("Fed. R. Civ. Proc.") 6(b) and is based upon the following Points and Authorities and all pleadings and papers on file herein. This Motion is made in good faith and not for the purposes of undue delay. Defendant requests an additional fourteen (14) days to file an answer to Plaintiff's four (4) part complaint, (ECF Nos. 9, 9-1, 9-2, 9-3).

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. RELEVANT FACTS AND PROCEDURAL HISTORY**

This is an inmate civil rights lawsuit brought by Plaintiff Azujhon Sims ("Plaintiff"), pursuant to 42 U.S.C. § 1983, and the Eighth Amendment to the U.S. Constitution regarding the handling of his medical requests. Plaintiff was an inmate in the lawful custody of the Nevada Department of Corrections ("NDOC"). (*See generally*, ECF No. 9.)

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1 The Complaint, filed in four parts, contains more than 100 pages. (See ECF No. 9 (16 pp.) 9-1  
2 (30 pp.), 9-2 (30 pp.), and 9-3 (39 pp.).)

3 On August 30, 2019, a summons and proof of service of Defendant Johns was filed (ECF No.  
4 26). An answer to the complaint is due today.

## 5 **II. LEGAL STANDARD**

6 District courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v.*  
7 *Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir.  
8 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

9 When an act may or must be done within a specified time, the court may,  
10 for good cause, extend the time: (A) with or without motion or notice if  
11 the court acts, or if a request is made, before the original time or its  
extension expires; or (B) on motion made after the time has expired if the  
party failed to act because of excusable neglect.

12 “The proper procedure, when additional time for any purpose is needed, is to present to the  
13 Court a timely request for an extension before the time fixed has expired (*i.e.*, a request presented  
14 before the time then fixed for the purpose in question has expired).” *Canup v. Miss. Valley Barge Line*  
15 *Co.*, 31 F.R.D. 282, 283 (D. Pa. 1962). The *Canup* Court explained that “the practicalities of life” (such  
16 as an attorney’s “conflicting professional engagements” or personal commitments such as vacations,  
17 family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court  
18 deadline. *Id.* Extensions of time “usually are granted upon a showing of good cause, if timely made.”  
19 *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D. Ohio 1947). The good cause standard considers a party’s  
20 diligence in seeking the continuance or extension. *See, e.g., Johnson v. Mammoth Recreations, Inc.*,  
21 975 F.2d 604, 609 (9th Cir. 1992).

## 22 **III. DISCUSSION**

23 Defendant’s deadline to file an answer is today, September 19, 2019. As the deadline has not yet  
24 expired, Defendant must therefore demonstrate good cause for the requested enlargement. Good cause  
25 exists to enlarge the time for Defendant to file an answer because counsel has only been recently employed  
26 with the Office of the Attorney General and been assigned this case. (See Notice of Change of Deputy  
27 Attorney General, ECF No. 27.) Counsel for the Defendant needs additional time to evaluate the merits of

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1 the case, discuss the allegations with the Defendant, and time to evaluate potential defenses and affirmative  
2 defenses in order to answer the complaint.

3 Additionally, counsel has been assigned many cases wherein many deadlines were set prior to their  
4 assignment to the undersigned, and counsel has not had sufficient time to become familiar with the cases  
5 and their respective deadlines, including this case and this deadline.

6 Defendant is seeking this enlargement in good faith and not for the purpose of any unnecessary  
7 delay. Moreover, Defendant does not perceive any possible prejudice to Plaintiff if this motion is  
8 granted. Therefore, Defendant request an additional fourteen (14) days to file an answer and be  
9 allowed up to and including Thursday, October 3, 2019, to file an answer.

10 **IV. CONCLUSION**

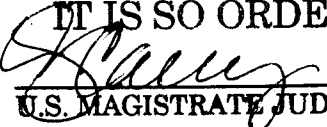
11 As stated, Defendant needs additional time to file an answer based on their counsel's recent  
12 assignment to the case. Accordingly, Defendant respectfully request this Honorable Court grant this  
13 motion and allow Defendant up to and including Thursday, October 3, 2019, to file an answer.

14 DATED this 19th day of September, 2019.

15 AARON D. FORD  
16 Attorney General

17 By: /s/ Peter E. Dunkley  
18 PETER E. DUNKLEY, Bar No. 11110  
Deputy Attorney General

19 *Attorneys for Defendant*

20  
21 **IT IS SO ORDERED**  
22   
23 **U.S. MAGISTRATE JUDGE**  
24 DATED: 9/20/2019  
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